

U.S. Department of Housing and Urban Development

Policy Development & Research (PD&R)

Low-Income Housing Tax Credit (LIHTC) Data Collection

Privacy Impact Assessment

05/07/2013

DOCUMENT ENDORSEMENT

I have carefully assessed the Privacy Impact Assessment (PIA) for **Low-Income Housing Tax Credit (LIHTC) Data Collection**. This document has been completed in accordance with the requirement set forth by the [E-Government Act of 2002](#) and [OMB Memorandum 03-22](#) which requires that "Privacy Impact Assessments" (PIAs) be conducted for all new and/ or significantly altered IT Systems, and Information Collection Requests.

ENDORSEMENT SECTION

Please check the appropriate statement.

 X The document is accepted.
 The document is accepted pending the changes noted.
 The document is not accepted.

Based on our authority and judgment, the data captured in this document is current and accurate.

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**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
PRIVACY IMPACT ASSESSMENT (PIA) FOR:
LOW-INCOME HOUSING TAX CREDIT (LIHTC)**

May 7, 2013

NOTE: See Section 2 for PIA answers, and Section 3 for Privacy Act Officer's determination.

SECTION 1: BACKGROUND

Importance of Privacy Protection – Legislative Mandates:

HUD is responsible for ensuring the privacy and confidentiality of the information it collects on members of the public, beneficiaries of HUD programs, business partners, and its own employees. These people have a right to expect that HUD will collect, maintain, use, and disseminate identifiable personal information only as authorized by law and as necessary to carry out agency responsibilities.

The information HUD collects is protected by the following legislation and regulations:

- Privacy Act of 1974, as amended affords individuals the right to privacy in records that are maintained and used by Federal agencies. (See <http://www.usdoj.gov/foia/privstat.htm>; see also HUD Handbook 1325.1 at www.hudclips.org);
- Computer Matching and Privacy Protection Act of 1988 is an amendment to the Privacy Act that specifies the conditions under which private information may (or may not) be shared among government agencies. (See <http://www.usdoj.gov/foia/privstat.htm>);
- Freedom of Information Act of 1966, as amended (http://www.usdoj.gov/oip/foia_updates/Vol_XVII_4/page2.htm) provides for the disclosure of information maintained by Federal agencies to the public, while allowing limited protections for privacy. See also HUD's Freedom of Information Act Handbook (HUD Handbook 1327.1 at www.hudclips.org));
- E-Government Act of 2002 requires Federal agencies to conduct Privacy Impact Assessments (PIAs) on its electronic systems. (See http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_public_laws&docid=f:publ347.107.pdf; see also the summary of the E-Government Act at http://www.whitehouse.gov/omb/egov/pres_state2.htm);
- Federal Information Security Management Act of 2002 (which superseded the Computer Security Act of 1987) provides a comprehensive framework for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets, etc. See also the codified version of Information Security regulations at Title 44 U.S. Code chapter 35 subchapter II (<http://uscode.house.gov/search/criteria.php>); and
- OMB Circular A-130, Management of Federal Information Resources, Appendix I (http://www.whitehouse.gov/omb/circulars/a130/appendix_i.pdf) defines Federal Agency responsibilities for maintaining records about individuals.

Access to personally identifiable information will be restricted to those staff that has a need to access the data to carry out their duties; and they will be held accountable for ensuring privacy and confidentiality of the data.

What is the Privacy Impact Assessment (PIA) Process?

The Privacy Impact Assessment (PIA) is a process that evaluates issues related to the privacy of personally identifiable information in electronic systems. See background on PIAs and the 7 questions that need to be answered, at: <http://www.hud.gov/offices/cio/privacy/pia/pia.cfm>. Personally identifiable information is defined as information that actually identifies an individual, e.g., name, address, social security number (SSN), or identifying number or code; or other personal/ sensitive information such as race, marital status, financial information, home telephone number, personal e-mail address, etc. Of particular concern is the combination of multiple identifying elements. For example, knowing name + SSN + birth date + financial information would pose more risk to privacy than just name + SSN alone.

The PIA:

- Identifies the type of personally identifiable information in the system (including any ability to combine multiple identifying elements on an individual);
- Identifies who has access to that information (whether full access or limited access rights); and
- Describes the administrative controls that ensure that only information that is necessary and relevant to HUD's mission is included.

Who Completes the PIA?

Both the program area System Owner and IT Project Leader work together to complete the PIA. The System Owner describes what personal data types are collected, how the data is used, and who has access to the personal data. The IT Project Leader describes whether technical implementation of the System Owner's requirements presents any risks to privacy, and what controls are in place to restrict access of personally identifiable information.

When is a Privacy Impact Assessment (PIA) Required?

- 1. New Systems:** Any new system that will contain personal information on members of the public requires a PIA, per OMB requirements (this covers both major and non-major systems).
- 2. Existing Systems:** Where there are significant modifications involving personal information on members of the public, or where significant changes been made to the system that may create a new privacy risk, a PIA is required.

3. Information Collection Requests, per the Paperwork Reduction Act (PRA):

Agencies must obtain OMB approval for new information collections from ten or more members of the public. If the information collection is both a new collection and automated, then a PIA is required.

What are the Privacy Act Requirements?

Privacy Act. The [Privacy Act of 1974](http://www.usdoj.gov/foia/privstat.htm), as amended (<http://www.usdoj.gov/foia/privstat.htm>) requires that agencies publish a Federal Register Notice for public comment on any intended information collection. Privacy Act Systems of Records are created when information pertaining to an individual is collected and maintained by the Department, and is retrieved by the name of the individual or by some other identifying number, symbol, or other identifying particular assigned to an individual. The [E-Government Act of 2002](#) requires PIAs for electronic systems as well as information collection requests that are automated. So, there is a relationship between the new PIA requirement (when automation is involved) and the long-standing Privacy Act System of Records Notices (for both paper-based and automated records that are of a private nature). For additional information, contact the Departmental Privacy Act Officer in the Office of the Chief Information Officer.

Why is the PIA Summary Made Publicly Available?

The E-Government Act of 2002 requires that the analysis and determinations resulting from the PIA be made publicly available. The Privacy Advocate in HUD's Office of the Chief Information Officer (OCIO) is responsible for publishing the PIA summary on HUD's web site. See: <http://www.hud.gov/offices/cio/privacy/pia/pia.cfm>.

SECTION 2 – COMPLETING A PRIVACY IMPACT ASSESSMENT

Please submit answers to the Departmental Privacy Act Officer in the Office of the Chief Information Officer (OCIO). If any question does not apply, state Not Applicable (N/A) for that question, and briefly explain why it is not applicable.

Program Area: Policy Development & Research

Subject Matter Expert in the Program Area: Michael Hollar

Program Area Manager: Kurt Usowski

IT Project Leader: Michael Hollar

For IT Systems:

- **Name of system:**
- **PCAS #:**
- **OMB Unique Project Identifier #:**
- **System Code:**
- **Development Date:**
- **Expected Production Date:**

For Information Collection Requests:

- **Name of Information Collection Request: LIHTC Data Collection**
- **OMB Control #: 2528-0165 (Exp. 05/31/2013)**

Question 1: Provide a general description of the system that describes: The following questions are intended to define the scope of the information in the system (or information collection), specifically the nature of the information and the sources from which it is obtained.

- a. What is the personal information being collected?** Name, Address, Race, Ethnicity, Household Income, Last 4 Digits of Social Security Number.
- b. From whom is the information collected (i.e., government employees, contractors, or consultants)?** The state housing finance agencies (FHAs) submit the information to HUD.
- c. What is the functionality of the system and the purpose that the records and/or system serve?** Pursuant to 42 USC Section 1437z-8, state housing finance agencies (FHAs) that administer the Low-Income housing Tax Credit (LIHTC) Program must submit the information to HUD. HFAs collect this information from property managers and tenants for purposes of program compliance.
- d. How information is transmitted to and from the system;** State housing finance agencies (HFAs) submit XML-formatted files through a secure, access-restricted portal on HUDUser.org.
- e. What are the interconnections with other systems.** There are no other connections with other systems.
- f. What specific legal authorities, arrangement, and/or agreement authorize the collection of information (i.e. must include authorities that cover all information collection activities, including Social Security Numbers)?** 42 USC Section 1437z-8 requires the collection of race, ethnicity, family composition, age, income, use of rental assistance under section 1437f (o) of this title or other similar assistance, disability status, and monthly rental payments of households residing in each LIHTC property. The collection of the last four digits of tenant social security numbers is permitted through Section 502 (g) of the Housing and Urban Development Act of 1970 (Public Law 91-609) (12 U.S.C. 1701z-1; 1701z-2(d) and (g)). The information collected on these forms is protected by the Privacy Act of 1974, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), and the Fair Housing Act (42 U.S.C. 3601-19).

Question 2: Type of electronic system or information collection.

	Yes	No
A. If a new electronic system (or one in development) (implemented after April 2003, the effective date of the E-Government Act of 2002)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Does the system require authentication?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is the system browser-based?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is the system external-facing (with external users that require authentication)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Yes	No
B. If this is existing electronic system has the system undergone any changes (since April 17, 2003)? If an existing system, when was the system developed? The system was developed in 2010.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Do the changes to the system involve a change in the type of records maintained, the individuals on whom records are maintained, or the use or dissemination of information from the system?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If yes, please explain:		

C. For your new and/or existing electronic system, please indicate if any of the following changes have occurred: Mark any of the following conditions for your existing system that OMB defines as a “trigger” for requiring a PIA or PIA update (if not applicable, mark N/A):	
<input type="checkbox"/>	Conversion: When paper-based records that contain personal information are converted to an electronic system
<input type="checkbox"/>	From Anonymous (Non-Identifiable) to “Non-Anonymous” (Personally Identifiable): When any systems application transforms an existing database or data collection so that previously anonymous data becomes personally identifiable
<input type="checkbox"/>	Significant System Management Changes: When new uses of an existing electronic system significantly change how personal information is managed in the system. (Example #1: when new “relational” databases could combine multiple identifying data elements to more easily identify an individual. Example #2: when a web portal extracts data elements from separate databases, and thereby creates a more open environment for exposure of personal data)
<input type="checkbox"/>	Merging Databases: When government databases are merged, centralized, matched, or otherwise significantly manipulated so that personal information becomes more accessible (with special concern for the ability to combine multiple identifying elements)
<input type="checkbox"/>	New Public Access: When <u>new</u> public access is given to members of the public or to business partners (even if the system is protected by password, digital certificate,

	or other user-authentication technology)
	Commercial Sources: When agencies systematically incorporate into databases any personal data from commercial or public sources (ad hoc queries of such sources using existing technology does not trigger the need for a PIA)
	New Inter-agency Uses: When agencies work together (such as the federal E-Gov initiatives), the lead agency should prepare the PIA
	Business Process Re-engineering: When altering a business process results in significant new uses, disclosures, or additions of personal data
	Alteration in Character of Data: When adding new personal data raises the risks to personal privacy (for example, adding financial information to an existing database that contains name and address)

D. If an Information Collection Request (ICR): Is this a <u>new</u> Request that will collect data that will be in an <u>automated</u> system? Agencies must obtain OMB approval for information collections from 10 or more members of the public. The E-Government Act of 2002 requires a PIA for ICRs only if the collection of information is a <u>new</u> request and the collected data will be in an <u>automated</u> system.	
	Yes, this is a new ICR and the data will be automated
	No, the ICR does not require a PIA because it is not <u>new</u> or <u>automated</u>)
	Comment: This is not a new ICR, but it is automated.

Question 3: Explain by Line of Business why the personally identifiable information being collected? How will it be used?

Mark any that apply:

Homeownership:

	Credit checks (eligibility for loans)
	Loan applications and case-binder files (via lenders) – including borrower SSNs, salary, employment, race, and other information
	Loan servicing (MIP collections/refunds and debt servicing for defaulted loans assigned to HUD)
	Loan default tracking
	Issuing mortgage and loan insurance
	Other (specify):
	Comment:

Rental Housing Assistance:

	Eligibility for rental assistance or other HUD program benefits
X	Characteristics on those receiving rental assistance (for example, race/ethnicity, # of children, age)
	Property inspections
X	Other (specify): Verify assistance from HUD programs.
	Comment:

Grants:

	Grant application scoring and selection – if any personal information on the grantee is included
	Disbursement of funds to grantees – if any personal information is included
	Other (specify):
	Comment:

Fair Housing:

	Housing discrimination complaints and resulting case files
	Other (specify):
	Comment:

Internal operations:

	Employee payroll or personnel records
	Payment for employee travel expenses
	Payment for services or products (to contractors) – if any personal information on the payee is included
	Computer security files – with personal information in the database, collected in order to grant user IDs
	Other (specify):
	Comment:

Other lines of business (specify uses):

Question 4: Will you share the information with others? (e.g., another agency for a programmatic purpose, internal HUD application/module or outside the government)?

Mark any that apply:

	Federal agencies?
	State, local, or tribal governments?
	Public Housing Agencies (PHAs) or Section 8 property owners/agents?
	FHA-approved lenders?
	Credit bureaus?
	Local and national organizations?
	Non-profits?
	Faith-based organizations?
	Builders/ developers?
	HUD module/application? (specify the module(s)/application(s) name)
X	Others? (specify):
	Comment: The statute requires HUD to make the data publically available after ensuring protection of privacy. The information collected on these forms is protected by the Privacy Act of 1974, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), and the Fair Housing Act (42 U.S.C. 3601-19).

Question 5: Can individuals “opt-out” by declining to provide personal information or by consenting only to particular use (e.g., allowing their financial information to be used for basic rent eligibility determination, but for not for sharing with other government agencies)?

X	Yes, they can “opt-out” by declining to provide private information.
	No, they can’t “opt-out” – all personal information is required
	Comment:

If Yes, please explain the issues and circumstances of being able to opt-out (either for specific data elements or specific uses of the data): **Tenants may choose “No Response” on form for Race, Ethnicity, and Disability Status.**

Question 6: How will the privacy of the information be protected/ secured? What are the administrative and technological controls?

Mark any that apply and give details if requested:

	System users must log-in with a password (Please specify password type)
X	When an employee leaves: <ul style="list-style-type: none"> How soon is the user ID terminated? Access immediately restricted. How do you know that the former employee no longer has access to your system? Only accessible through HUD’s network and terminated employees do not have access to HUD’s network.
X	Are access rights selectively granted, depending on duties and need-to-know? If Yes, specify the approximate # of authorized users who have either:

	<ul style="list-style-type: none"> Full access rights to all data in the system:
	Limited/restricted access rights to only selected data: <u>Yes, currently only 3 employees have access. All have full access rights.</u>
	Are disks, tapes, and printouts that contain personal information locked in cabinets when not in use? (explain your procedures, or describe your plan to improve):
	If data from your system is shared with another system or data warehouse, who is responsible for protecting the privacy of data that came from your system but now resides in another? Explain the existing privacy protections, or your plans to improve:
	Other methods of protecting privacy (specify):
	Comment:
Privacy Impact Analysis: Given the access and security controls, what privacy risks were identified and describe how they were mitigated.	

Question 7: If privacy information is involved, by what data element(s) is it retrieved from the system?

Mark any that apply

	Name:
	Social Security Number (SSN)
	Identification number (specify type):
	Birth date
	Race/ ethnicity
	Marital status
	Spouse name
	Home address
	Home telephone
	Personal e-mail address
	Other (specify):
<input checked="" type="checkbox"/>	None
	Comment: System is currently under development and no reports are generated on data.

Question 8: What type of Notice(s) are provided to the individual on the scope of information collected, the opportunity to consent to uses of said information, the opportunity to decline to provide information.

- a. Was any form of notice provided to the individual prior to collection of information? If yes, please provide a copy of the notice as an appendix. (A notice may include a posted privacy policy, a Privacy Act notice on

form(s), and/or a system of records notice published in the Federal Register.) If notice was not published, why not? The Privacy Act notice in the form states “This collection is mandatory, but disclosure by the tenant of race, ethnicity and disability status is optional.”

- b. **Do individuals have an opportunity and/or right to decline to provide information?** Yes, tenant has option of “No Response”.
- c. **Do individuals have an opportunity to consent to particular uses of the information, and if so, what is the procedure by which an individual would provide such consent?** No

Question 9: What are the Retention Use and Disposal Practices. Guidance for this section should obtain from HUD retention use and disposal policy. It should also be validated that these procedures are outlined in the contracted service agreement to ensure that the contracted system does not hold onto data after services are no longer provided.

- a. **How long is information retained?**

Collection began in 2010 and all data has been retained. PD&R does not have plans to dispose of information.

- b. **Has the retention schedule been approved by the component records officer and the National Archives and Records Administration (NARA)?**

N/A

3.4 Privacy Impact Analysis: Please discuss the risks associated with the length of time data is retained and how those risks are mitigated.

Risks are mitigated by storing data on an access-restricted, secure server.

SECTION 3 - DETERMINATION BY HUD PRIVACY ACT OFFICER

There are no privacy concerns at this time and approval of this PIA is recommended. The PIA is being forwarded to Nadine for reconciliation with the SORN. Since this is a Sensitive PII data collection the next review of the Privacy Impact Assessment is due no later than May 1, 2015, unless changes or updates to the system occur before that time that affect the way PII is collected and/or disseminated.